

UNITED STATES
DEPARTMENT OF
AGRICULTURE

KANSAS CITY
COMMODITY OFFICE
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ANNOUNCEMENT PP9

**PURCHASE OF COMMERCIAL
PEANUT PRODUCTS
FOR USE IN DOMESTIC PROGRAMS**



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PEANUT PRODUCTS

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**ANNOUNCEMENT PP9
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FOR USE IN DOMESTIC PROGRAMS**

1. GENERAL

A. Invitation for Offers

- (1) The United States Department of Agriculture (USDA) will from time to time issue an invitation for offers under this announcement to sell commercial peanut products (hereinafter referred to as peanut butter, roasted peanuts, peanut granules or product) to USDA for use in domestic programs.
- (2) The invitation will specify the office to which offers are to be submitted, the closing time for receipt of offers, and provisions applicable to the proposed procurement which are in addition to or different from those set forth herein.

B. Terms and Conditions

- (1) Provisions of "General Terms and Conditions for the Procurement of Agricultural Commodities or Services," USDA-1, Revision No. 2, as amended (USDA-1), are incorporated as specified in Section 6 of this announcement.
- (2) Offerors are cautioned to read all terms and conditions of USDA-1, the Total Quality Systems Audit (TQSA) Supplier Guidelines, this announcement, the appendixes to this announcement, and the invitation.

C. Certifications, Representations, and Warranties

Appendix 1 to this announcement contains certifications, representations, and warranties that must be certified and submitted annually to USDA prior to or with an offer. In addition to an annual submission, offerors must submit an updated Appendix 1 as changes in the certifications, representations, and warranties submitted to USDA occur throughout the year.

2. ELIGIBILITY OF OFFERORS

To be eligible to submit an offer under this announcement, the offeror must:

- A. Submit a completed "Solicitation Mailing List Application" (Standard Form 129) to the contracting officer prior to a first offer. Offeror must complete all portions of the SF-129, except Item 18, and include the following additional information for:
 - (1) Item 8. Identify all affiliates including any parent company. Provide full name and main office address. A "parent" company is one that owns or controls the activities and basic business policies of the bidder. An "affiliate" is defined on the back of the form.
 - (2) Item 10. Identify the commodities/products the offeror is interested in supplying.
 - (3) Items 19 and 20. Must be an officer of the company.
- B. Offerors must resubmit the SF-129 as necessary when the information requires updating.
- C. Affirmatively demonstrate responsibility as defined in Federal Acquisition Regulation (FAR) 9.104-1. USDA may request a pre-award survey for the purpose of evaluating the offeror's ability to perform the contract.
- D. Meet the definitions of a manufacturer or nonmanufacturer as defined below:
 - (1) Manufacturer, means a person that owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
 - (2) Nonmanufacturer means a person that is primarily engaged in the wholesale or retail trade and normally sells the items being supplied to the general public, and will supply the end item of a small business manufacturer or processor made in the United States, or obtain a waiver or such requirement pursuant to 13 C.F.R. 121.406.
- E. Maintain a bona fide business office in the United States for the purpose of selling to USDA the product described in this announcement. Additionally, the offeror must maintain an office, employee, or agent for service of process.

- F. Meet the requirements of the Total Quality Systems Audit (TQSA) program. Offerors shall only be allowed to offer from plants that have been audited under TQSA and have received a score of at least 80 points. However, a result of “0” in any element of the TQSA Report Form TQ-003 would preclude participation in the commodity purchase programs until such time as corrective action is implemented and verified as effective. (Element scoring: 0 = one (or more) questions with a result of “0”, or four or more questions with a result of “M”.) The Total Quality Systems Audit Suppliers Guidelines setting for the TQSA requirements may be obtained at the Internet location www.fsa.usda.gov/daco/TQSA/tqsa.htm or by contacting the appropriate contracting officer at 816-926-6062.

3. SUBMISSION OF OFFERS

A. How to Submit Offers

Offers, modifications, withdrawals of offers, and price adjustments shall be submitted through the Domestic Electronic Bid Entry System (DEBES) and received by the date and local time specified in the invitation for receipt of offers. The time of receipt will be determined and recorded by DEBES. Submission of the above by any means other than DEBES will be determined nonresponsive.

B. Computer Software Requirements

The contractor is responsible for choosing their own Internet Service Provider (ISP) to transmit, translate, or carry data between the offeror and this office. The offeror is responsible for the cost of its third-party network.

- (1) Browser requirement: Netscape 4.07 or above **(OR)** Internet Explorer 5.0 or above.
- (2) Encryption: Browser capable of handling 128-bit encryption.
- (3) Proxy servers: Offerors must set up their proxy server to allow access to the Internet DEBES port.

C. Access to DEBES

- (1) Port location is: <https://pcsd.usda.gov:3077/mdbc1000.exe?>
- (2) This office will provide the offeror with an ID number and the initial password needed to access DEBES.

:

- (3) USDA will not be responsible for any failure attributed to the transmission of the bid data prior to being accepted and stored on our web server including, but not limited to the following
 - (a) Any failure of the offeror's computer hardware or software.
 - (b) Availability of your Internet service provider.
 - (c) Delay in transmission due to the speed of your modem.
 - (d) Delay in transmission due to excessive volume of Internet traffic.
- (4) Price and mode of transportation offered for each item must be entered on DEBES offer form bid page. The Trans (transportation) Mode on the DEBES offer form bid page will default to truck. Offerors may select the rail or piggyback mode for each item if applicable. Offeror's designated mode of transportation will become a contract requirement and may not change without prior approval from this office.

D. Late Submission and Modifications:

Any offer submitted to DEBES after the designated time specified for receipt in the invitation will not be considered. Notwithstanding the above, a late modification of an otherwise successful bid that makes its terms more favorable to the government will be considered at any time it is received and may be accepted. For the purpose of this announcement, USDA-1, Articles 6 and 7 are excluded.

E. Basis of Offer

Offers are invited f.o.b. destination. Certain destinations require delivery by TRUCK ONLY or RAIL ONLY. Destinations asterisked together in the invitation indicate carlot combinations, and offers are requested for delivery to all points indicated in the combination. Offerors may rearrange destination sequence on carlot combinations provided the offer is for all parts of the carlot combination. A single price shall be offered for each item. Offers for less than quantity requested per item will not be accepted. **THE USE OF OPEN VAN CARRIERS IS NOT ALLOWED.**

4. ACCEPTANCE OF OFFERS

- A. USDA will notify successful offerors on the date specified in the invitation. The date of acceptance by USDA will be the contract date.
- B. In addition to the price, factors considered in accepting offers will include the time of shipment, the total cost to the Government to deliver the product to the ultimate destination, and the responsibility of the offeror as demonstrated by prior contract performance.
- C. USDA may accept or reject any or all offers, or portions thereof.

5. RESPONSIBILITY AND PAST PERFORMANCE OF OFFEROR

- A. Offerors are cautioned not to bid on product quantities exceeding a level that the offeror can reasonably expect to deliver in accordance with the contract schedule. Deliveries must be made during the contracted delivery period and no extensions will be granted due to weekends or Federal holidays. On time delivery is imperative because this product is used in domestic food programs. Late deliveries cause serious and substantial damages to USDA and to other agencies that use this commodity. Contractor delivering late on contracts must immediately notify the contracting officer of late deliveries and how soon delivery can be expected.
- B. The offeror must certify to timely performance on current contracts on the DEBES certification form. A determination that the late performance is beyond the control or negligence of the contractor will be made by the contracting officer prior to bid opening. An offeror may be deemed nonresponsible if the offeror is delivering late on contracts with USDA and the late delivery is not due to causes beyond the contractor's control. This provision, as it pertains to small business, is a deviation from FAR 9.103(b) and Subpart 19.6.

6. PROVISIONS OF CONTRACT

- A. The contract consists of:
- (1) Contractor's offer.
 - (2) USDA's acceptance.
 - (3) The applicable invitation.
 - (4) This announcement, including Appendixes 1, and 2.
 - (5) TQSA Supplier Guidelines
 - (6) USDA-1, except Articles 50 and 55 and all of Part E. Articles 56, 65 and 67 are applicable, except that contracts will be executed on a delivery basis. All words referring to "ship," "shipping," "shipments," and "shipped" shall be "deliver," "delivering," "delivery(ies)," and "delivered".
- B. If the provisions of USDA-1, TQSA Supplier Guidelines, and this announcement are not consistent, the provisions of this announcement will prevail. If the provisions of USDA-1, TQSA Supplier Guidelines, this announcement, and the invitation are not consistent, those of the invitation will prevail.
- C. No interpretation or amendment of this announcement is valid or enforceable unless such interpretation or amendment is in writing and executed by the contracting officer. No other determination or opinion shall be a contract interpretation even if it comes from another USDA official.

7. NAICS CODE AND SMALL BUSINESS SIZE STANDARD

- A. The North American Industry Classification System (NAICS) code for this acquisition and the small business size standard is:

COMMODITY	NAICS CODE	SIZE STANDARD (EMPLOYEES)
Peanut Butter	311911	500
Peanut Granules	311911	500
Roasted Peanuts	311911	500

- B. The small business size standard for a concern which submits an offer in its own name, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

- C. The U.S. Small Business Administration (SBA) has implemented the Procurement Marketing and Access Network (PRO-Net). PRO-Net is a procurement related Internet-based electronic search engine for locating small, small disadvantaged, and women-owned small business sources. The PRO-Net Internet address (URL) is (<http://pro-net.sba.gov>). Companies that do not have access to the Internet may register for PRO-Net through your local SBA office. The PRO-Net is a free electronic gateway linked to the Commerce Business Daily, government agency home pages, and other sources of procurement opportunities.

8. COMMODITY SPECIFICATIONS

A. Domestic Origin

- (1) The product delivered under this announcement must be produced in the United States from commodities produced in the United States. U.S. domestic origin certification is not required for sweeteners and stabilizers used in the manufacture of peanut butter.
- (2) Peanut oil contractors will no longer be required to provide a domestic origin certification for peanut oil used in the production of peanut butter. The domestic origin requirement for peanut oil can be satisfied by providing records that show that during the contract delivery period the quantity of available domestic origin peanut oil at the supplying facility is equal to or greater than the quantity called for in the contract.
- (3) For purposes of this section, the following definition applies:

"Produced in the United States" means manufactured, processed, mined, harvested, or otherwise prepared for sale or distribution, from components originating in the United States. Components originating in the United States which have been exported, and subsequently imported back into the United States, will not be considered as having been produced in the United States.
- (4) The contractor must maintain records to verify that during the contract delivery period, at the point of packaging or, in the case of bulk commodities, at the point of delivery to USDA, the product was in compliance with the domestic origin requirements of this section of the announcement. (See Article 76 of USDA-1).
- (5) USDA will randomly conduct domestic origin compliance reviews to determine if the product delivered to USDA was produced and manufactured in the U.S. from materials produced and manufactured in the U.S. Upon request, the contractor must submit documentation substantiating compliance to the contracting officer for review. This documentation may include procurement, production, inventory, delivery, and any other pertinent records. Onsite reviews may also be performed, at the discretion of USDA.

B. Warranty

- (1) Vendors supplying commercial products must certify and fully demonstrate that the product being delivered has a history of successful distribution and use in domestic commercial channels. The product delivered shall have a standard retail commercial quality, and comply with all applicable Federal and State mandatory requirements and regulations relating to the preparation, processing, labeling, storage, distribution, and sale within the commercial marketplace.
- (2) The product must conform in every respect to the provisions of the Federal Food, Drug, and Cosmetic Act, as amended, and the regulations promulgated thereunder, including any Defect Action Level guidelines issued by the Food and Drug Administration (FDA) which may be applicable to this product. Any product with counts in excess of the FDA Defect Action Level guidelines shall not be shipped.
- (3) The peanut products must have a shelf life of at least one year from date of manufacturer. Product must not be manufactured more than 60 days prior to shipping. Contractor must replace defective commodity with an equal quantity of commodity which conforms to all contract requirements and specifications, provided replacement is agreed to by USDA.

C. Quality of Peanuts

- (1) Shelled peanuts used in the manufacture of peanut butter, roasted peanuts, and peanut granules to be delivered to USDA must be pretested for aflatoxin at the contractor's expense, in accordance with Title 7, CFR, Parts 997 and 998, Outgoing Quality Regulations. It is also a requirement that all blanchers be approved by the Peanut Administrative Committee (PAC).
- (2) If it has been determined that the lot does not meet the aflatoxin requirement based on the original analysis or by means of an appeal inspection certificate, the lot must be resampled and tested for aflatoxin after blanching (provided blanching is required), using the "appeal" method of testing. In all cases when the appeal method is required, it shall be the method utilized by PAC under the Peanut Marketing Agreement.
- (3) The quality of the shelled peanuts to be utilized in this program must be within the requirements of current grades as outlined in Table 1 or Table 2 provided that a tolerance of not more than 2 percent by weight will be permitted for minor defects and damage combined, including therein not more than 1.25 percent for damage; and provided further for lots required to be U.S. Number 1 Grade or better, that upon an initial inspection of the lot, peanuts may contain not more than 3 percent split or broken kernels; or when peanuts are removed from cold storage or when remilled prior to usage, the lot of peanuts may contain not more than 6 percent split or broken kernels. Alternatively, manufacturers are authorized to use U.S. Number 2 Virginia with a minimum of 80 percent splits.

- (4) Peanuts used for all products must be from current crop-year stocks or as specified in the applicable invitation, and milled from farmers' stock quota peanuts grown in the U.S. Title 7, CFR, Section 1446, governing the peanut price support prohibits the use of additional peanuts (those produced in excess of the national quota poundage) in the domestic market.
- (5) If it is determined that additional peanuts, which are required to be exported and remain exported or crushed into oil, are utilized in the manufacturer of peanut products (peanut butter, roasted peanuts, or peanut granules) to fulfill contracts, the product will not be eligible under this announcement, and the processor placing such additional peanuts into the domestic market will be subject to the penalty provisions of Title 7, CFR, Section 1446, for the applicable crop year from which the peanuts were produced.
- (6) The cars or trailers in which the peanuts are loaded must be clean, sanitary, and in a condition to protect the commodity during transit so that the peanuts arrive at destination free from contamination.

TABLE 1 - PEANUT GRADES FOR PEANUT BUTTER AND PEANUT GRANULES

The U.S., PAC, and American Peanut Shellers Association grades that may be used for peanuts to be processed into peanut butter or peanut granules are:	
U.S. Runner Splits	APSA Runner Grades with Splits
U.S. Spanish Splits	APSA Number 1 Runner
U.S. Virginia Splits	APSA Select Runner
U.S. Number 1 Runner	APSA Medium Runner
U.S. Number 1 Spanish	APSA Jumbo Runner
U.S. Number 1 Virginia	APSA Mill Run Runner
U.S. Medium Virginia	APSA Runner Grades
U.S. Extra Large Virginia	APSA Runner Splits
PAC with Split Grades	PAC Runner with Splits
PAC Spanish with Splits	PAC Virginia with Splits
U.S. Number 2 Virginia (minimum 80 percent splits)	

TABLE 2 - PEANUT GRADES AND MINIMUM SIZES FOR ROASTED PEANUTS

The grade and minimum screen sizes for peanuts to be processed from roasted peanuts are:	
<u>Grade</u>	<u>Minimum Screen Size</u>
U.S. Number 1 Runner	18/64 x 3/4 inch slot
U.S. Number 1 Spanish	15/64 x 3/4 inch slot
U.S. Number 1 Virginia	18/64 x 1 inch slot
U.S. Medium Virginia	18/64 x 1 inch slot
U.S. Extra Large Virginia	20/64 x 1 inch slot
APSA Medium Runner	18/64 x 3/4 inch slot
APSA Jumbo Runner	21/64 x 3/4 inch slot

- (7) Except for lots which the finished product is to be unblanched roasted Spanish peanuts, the contractor may elect to blanch the peanuts en route, in which case it is the contractors responsibility to notify custom blanchers. Advance notice must include:
- (1) Dates the lots will arrive at the blanching plants;
 - (2) Manifest;
 - (3) Lot identification;
 - (4) Name of prime contractor;
 - (5) Announcement and invitation number under which the lot is being tendered and the type of end product to be manufactured for delivery.

D. Quality of Peanut Butter

- (1) The peanut butter must be of a stabilized type and must be equivalent to the requirements for U.S. Grade A as defined in the "U.S. Standards for Grades of Peanut Butter" in effect on the date of issuance of the applicable invitation.
- (2) The peanut butter must be finely ground and have smooth texture. If chunky peanut butter is called for in the invitation, the texture will be partially fine or partially grainy with substantial amounts of peanut particles larger than 1/16 inch in any dimension. The consistency of the finished product will be such that it spreads uniformly without tearing or breaking fresh white bread. Additionally, the consistency of the finished product shall be free of any "gelatin like" condition.

- (3) The peanut butter must be made of peanuts which have been blanched with the majority of the hearts and germs removed. The color shall be medium brown, but not lighter than USDA Color 2 nor darker than USDA Color 3, as described in the “U.S. Standards for Grades of Peanut Butter”.
- (4) The peanut butter must contain a sufficient amount of stabilizers derived solely from vegetable sources so as to prevent oil separation. Vegetable oils must be produced from non-tropical sources (i.e., coconut, palm, and palm kernel). U.S. origin certification is not required for sweeteners and stabilizers used in the manufacture of peanut butter.
- (5) The peroxide value of peanut butter delivered to USDA must not exceed 1.5 meg/kg.
- (6) Peanut butter delivered to USDA must not exceed the microbiological requirements contained in Table 3 below.

TABLE 3 - MICROBIOLOGICAL STANDARDS FOR PEANUT BUTTER

Salmonella	Negative
E. Coli	<3.6/g MPN
Coliform	<10/g MPN
APC	<10,000/g
Yeast	<100/g
Mold	<100/g

E. Quality of Roasted Peanuts

- (1) The roasted peanuts must be of the following types, and the maximum percentage by weight which may be splits is:

TABLE 4 -MAXIMUM NUMBER OF SPLITS

Regular/Oil Roasted	Percentage
Runner, blanched	50
Spanish, blanched	50
Spanish, unblanched	25

- (2) Not more than 4 percent by weight of the peanuts will consist of small pieces. A small piece is defined as any piece less than 1/4 peanut. The blanched peanuts shall be practically free from skins either loose or attached.
- (3) The unblanched Spanish type shall be practically free from blanched kernels.
- (4) The Spanish, Virginia, and Runner types shall be medium to heavy roasted. The peanuts may be slightly coated with oil, and the blanched peanuts will be bright. The finished product shall be crisp, palatable, and free from bitter, musty, sour, rancid, sprouty, or other objectionable tastes and odors. The products shall be free of mildew stains, filth, or other extraneous material. The color shall be medium brown, but not lighter than USDA Color 2 nor darker than USDA Color 3, as described in the "U.S. Standards for Grades of Peanut Butter."
- (5) The name "Runner" roasted peanuts, as referenced in the invitation, is defined as blanched roasted Runners or blanched roasted Virginia peanuts.
- (6) The name "Regular" roasted peanuts, as referenced in the invitation, is intended to be a generic product. Either of the two types of roasted peanuts listed in paragraph (1) above may be used.
- (7) The "Spanish" roasted peanuts as listed in the invitation must be unblanched U.S. No. 1 or better Spanish roasted peanuts.

F. Quality of Peanut Granules

The peanuts shall be medium dry or medium oil roasted, blanched, with the hearts and germs removed. The peanuts will be chopped into particles approximately 1/8 inch in diameter so that not more than 10 percent by weight will be retained on a U.S. Number 4 sieve and not more than 5 percent by weight will pass through a U.S. Number 12 sieve. The sieving test shall consist of placing 100 grams of peanut granules on a U.S. Number 4 sieve nested on a U.S. Number 12 sieve and tipping back and forth through a 90° arc 25 times. The color shall be a medium brown, but not lighter than USDA Color 2 nor darker than USDA Color 3. The finished product must be bright, crisp, palatable, and free from bitter, musty, sour, rancid, sprouty, or other objectionable tastes and odors. The product shall be practically free from skins. The product must show no dullness, mildew stains, skins, filth, or other extraneous material.

G. Quality of Roasting Oil

- (1) Refined peanut oil shall be used. The oil shall be thoroughly refined, deodorized, and free from rancidity and objectionable flavor after heating to 400°F and shall have a free-fatty acid content of not more than .08 percent (as oleic acid) prior to its first use. In addition, the roasting oil must be stabilized using additives of a kind and at levels permitted in edible oil products under the Federal Food, Drug, and Cosmetic Act, as amended, and regulations promulgated thereunder.

- (2) Daily production must start with new or freshly filtered oil and clean roasting tanks.

H. Finished Product Requirements for Peanut Butter, Roasted Peanuts, and Peanut Granules

- (1) The product must be packed and processed under sanitary conditions and must conform in every respect to the provisions of the "Federal Food, Drug, and Cosmetic Act," as amended, and the regulations promulgated thereunder, (including chemical test for aflatoxin) except the aflatoxin content must not exceed 15 parts per billion.
- (2) All peanut products offered under this announcement shall exhibit no detectable level of the herbicide monosodium methanearsonate (MSMA) or its metabolite cacodylic acid (CA).
 - (a) The test for MSMA consists of two parts. Part 1 is a test for total arsenic. If the total arsenic is below 150 ppb, the lot is acceptable. If total arsenic levels are detectable at a level greater than or equal to 150 ppb, then a second test for MSMA and CA will be conducted. If any MSMA and/or CA is detected, the lot will be rejected for purchase under this announcement.
 - (b) The contractor shall not ship the product prior to receipt of test results and confirmation of no detectable level of MSMA or CA in the product.
- (3) Subject to the provisions of Articles 60 and 68 of USDA-1, product which deviates from the specifications of this contract will be rejected.

9. QUALITY ASSURANCE

- A. The contractor must perform the product testing and quality analysis to ensure that the product meets the specifications described in Section 8. The results must be evidenced by a Certificate of Analysis. The contractor must retain the certificates of analysis and furnish to USDA upon request. Contractors are required to notify KCCO immediately of lots that fail to meet contract requirements.
- B. Contractor must not ship the product unless the containers and markings meet the Acceptable Quality Level (AQL) of the "U.S. Standards for Condition of Food Containers". Except with respect to shipments that do not meet the AQL standards, and notwithstanding Article 56(b) of USDA-1, contractor assumes all risks and liabilities that arise with respect to the failure of the shipped product to meet contract specifications.
- C. The TQSA program is a method of contractor verification and shall not relieve contractors of their responsibility to deliver a product which complies with all contractual and specification requirements.

- D. If the contractor becomes TQSA non-compliant after the contract is awarded and through execution of contract, the contracting officer may terminate contract for default.

10. COMMERCIAL PACKAGING AND MARKING SPECIFICATIONS

- A. In accordance with Article 60 of USDA-1, the USDA contractor will be liable if containers or packaging material do not meet contract requirements.
- B. All containers and packaging materials must be manufactured and assembled in the United States. The components that make up the fabricating materials of the containers and packaging materials must be of U.S. origin to the extent that they are commercially available.
- C. The marking and labeling for commercial products must be in accordance with good commercial practices.
- D. At contractor's option, a statement such as "NOT FOR RETAIL SALE" may be printed on the principal display panel of the food label.
- E. The manufacturer's lot code/lot identification number must be shown on the commercial bill of lading.
- F. For identification upon receipt at delivery warehouses, all commercial-labeled product shipping documents must specify "FOR USDA FOOD DISTRIBUTION PROGRAMS."
- G. "Kosher Only" products will be identified in the invitation. Offerors must not bid on these products unless they are properly certified to produce Kosher products. If an offeror bids on products identified as "Kosher Only," they shall provide a letter to the consignee certifying compliance with applicable Kosher dietary laws.
- H. Container and packaging requirements for commercial products are those used in the current commercial shipping practices and must comply with the following unitization requirements:
 - (1) Unless otherwise specified by USDA, all shipments of packaged products must be unitized (palletized and stretch wrapped).
 - (2) Pallets must be:
 - (a) Constructed to facilitate the safe handling and transportation of the packaged product, as a unit, without loss or damage.
 - (b) 48 x 40 inches, four-way or partial four-way, and reversible or nonreversible flush stringer.
 - (c) Suitable for use in the shipment of food products.
 - (3) Plastic stretch wrap must be:

- (a) Constructed of a plastic film which is to be stretch a minimum of 50 percent beyond its original length when stretched around the pallet load.
 - (b) Applied as tightly as possible around all tiers of the palletized shipping containers. The shipping containers must be held firmly in place by the stretch wrap.
- (4) Pallet loads must be:
 - (a) Stacked in such a way as to minimize the amount that shipping containers overhang the edges of pallets. (While shipping containers may overhang the edges of pallets, contractors are reminded that they are responsible for the safe shipment and delivery of the product.)
 - (b) Blocked and braced or otherwise loaded into the conveyance in a manner that prevents shifting during transit.
- I. Shipping containers must be marked to show the maximum safe stacking height. It is the responsibility of the contractor in cooperation with the shipping container manufacturers to determine the safe stacking height.

11. SHIPMENT AND DELIVERY

- A. Shipment and delivery must be made in accordance with this announcement and Articles 56 and 64 of USDA-1.
- B. Title and risk of loss will pass to USDA on the date of delivery, as evidenced by signed and dated consignee's receipt, warehouse receipt, dock receipt, or other similar document acceptable to USDA.
- C. The quantity of the product delivered must be evidenced by signed and dated consignee's receipt, warehouse receipt, dock receipt, or other similar document acceptable to USDA, and such document must be retained by the contractor.
- D. Contractors are required to make **TWO** notifications for each shipment (See Article 56(c) of USDA-1):
 - (1) The State Agency, "Consign To" party shown on the Notice to Deliver (N/D), must be **FAXED** on the day of shipment.
 - (2) The receiving warehouse, "Care Of" party shown on the N/D, must be called 24 hours in advance to schedule an unloading appointment. (This is not required for rail shipments.) Contractors must notify the contracting officer in advance if deliveries will not be made by the final delivery date under the contract, in accordance with Article 67(a) of USDA-1.
- E. Consignees may request upgrading of delivery services; for example, delivery within the doors of the consignee's premises or to a specific room within a building. Contractors are

alerted that such delivery terms are beyond contractual requirements. If an upgrade of delivery services is requested and agreed to, additional charges must be billed to the party requesting the service.

12. LIQUIDATED DAMAGES

A. Compensation to Contractor for Late Mailing of Notice to Deliver

Liquidated damages for delay in delivery due to late issuance of “Notice to Deliver” (KC-269), will be payable in accordance with Article 65 of USDA-1, and will be at the rate of \$0.45 per 100 pounds (net weight) per day.

B. Compensation to USDA for Delay in Delivery

Liquidated damages for delay in delivery will be payable in accordance with Article 67 of USDA-1, and will be at the rate of \$0.45 per 100 pounds (net weight) per day.

13. INVOICES AND PAYMENT

A. Invoicing and payment will be handled in accordance with Article 70, USDA-1, except that a properly prepared invoice package must include the following supporting documents:

- (1) A signed and dated Form KC-269 (reverse side) which includes the “Contractor’s Invoice Certification” evidencing the date of delivery and quantity (units) delivered in good condition, OR
- (2) A signed and dated commercial invoice evidencing the date of delivery and quantity (units) delivered in good condition which must include the following statement (either as a part of the commercial invoice or an attachment to):

“Contractor’s Invoice Certification”

“I certify that this invoice presented for payment is true. This certification is executed with full knowledge of the provision of 15 U.S.C. 714m(a), which provides a fine of not to exceed \$10,000 or imprisonment of not more than five years or both, for making any statement knowing it to be false, for the purpose of influencing in any way the action of the United States Department of Agriculture, and with full knowledge of the provisions of 31 U.S.C. 3729 imposing civil liability upon any person who shall make or cause to be made a false, fictitious, or fraudulent claim against the United States.”

Authorized signature

Date

- (3) Commercial bill of lading.
- (4) If the contractor does not complete a “Contractor’s Invoice Certification,” then proof of delivery as evidenced by one or more of the following documents will be required as a part of the invoice package:
 - (a) A copy of the Bill of Lading signed and dated by the recipient
 - (b) A copy of the commercial receipt evidencing delivery signed and dated by the recipient.

Invoices must be mailed to:

Kansas City Finance Office
Financial Operations Division, Payment Certification Branch
Stop Code 8578
P.O. Box 419205
Kansas City, MO 64141-6205

- B. The Debt Collection Improvement Act of 1996 amended 31 U.S.C. 3332 to require Federal agencies to convert all Federal payments from checks to electronic fund transfers. Payments must be made directly to a financial banking institution. To receive payments electronically, Standard Form 3881, ACH Vendor/Miscellaneous Payment Enrollment Form must be completed. If you have questions or would like this form mailed to you, contact Financial Operations Division, Payment Certification Branch.

14. INQUIRIES

Inquiries pertaining to USDA-1 and this announcement should be directed to:

Kansas City Commodity Office
Dairy and Domestic Operations Division
Stop Code 8718
P.O. Box 419205
Kansas City, MO 64141-6205

George W. Aldaya
Director
Kansas City Commodity Office

KANSAS CITY
COMMODITY OFFICE
P.O. BOX 419205
KANSAS CITY, MO 64141-6205

APPENDIX 1

Certifications, Representations, and Warranties for DOMESTIC COMMODITY PROCUREMENTS



APPENDIX 1

Certifications, Representations, and Warranties

These certifications concern matters within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under the United States Code, including Title 18, U.S.C., Section 1001 and Title 15, U.S.C., Section 714m.

1. The certifications, representations, and warranties listed in this appendix are required for submission of offers. The Kansas City Commodity Office (KCCO) will retain this appendix on file as the offeror's certifications, representations, and warranties for subsequent invitations for offers under the announcement(s) checked in the table below. By submitting an offer under the announcement(s) checked as applicable by the offeror in the table below, the offeror certifies and warrants that the appendix on file with KCCO contains the current status of the offeror. Offerors are responsible for updating this appendix as may be necessary prior to, or with any applicable offer submission by the offeror.

Domestic Announcements (Check <input checked="" type="checkbox"/> Applicable Announcements)			
<input type="checkbox"/>	BF Bakery Flour Products	<input type="checkbox"/>	PC Processed Cereal
<input type="checkbox"/>	CR Crackers	<input type="checkbox"/>	PP Peanut Products
<input type="checkbox"/>	CP Corn Products	<input type="checkbox"/>	RC Instant Rice Cereal
<input type="checkbox"/>	FC Fortified Cereal Products	<input type="checkbox"/>	RP Rice Products
<input type="checkbox"/>	MC Macaroni and Cheese	<input type="checkbox"/>	VP Vegetable Oil Products
<input type="checkbox"/>	PA Pasta Products	<input type="checkbox"/>	WF Wheat Flour Products

2. Notice of Requirements for Certification of Nonsegregated Facilities

By submitting an offer under the announcement(s) indicated in paragraph 1 of this appendix, the offeror shall be deemed to have agreed to the provisions of the "Certification of Nonsegregated Facilities" in Article 31 of USDA-1.

3. Manufacturer (*Check One*)

Offeror represents and certifies that it is ☐ is not ☐ a manufacturer.

Manufacturer means a person that owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

4. Nonmanufacturer (*Check One*)

Offeror represents and certifies it is ☐ is not ☐ a nonmanufacturer.

Nonmanufacturer means a person that is primarily engaged in the wholesale or retail trade and normally sells the items being supplied to the general public, and will supply the end item of a small business manufacturer or processor made in the United States, or obtain a waiver of such requirement pursuant to 13 C.F.R. 121.406.

5. Notice of Total Small Business Set-Aside (Applicable if procurement is a Total Small Business Set Aside)

A. Definition

"Small business concern," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in Title 13 CFR 121.

B. General

SET-ASIDE ITEM NUMBERS ARE THOSE IN THE 700-900 SERIES. Offers received from other than a small business for small business set-aside item numbers will not be considered unless USDA is unsuccessful in contracting for those item numbers under set-aside provisions. In that event, USDA may award the set-aside item numbers to other than small businesses.

C. Agreement

A manufacturer or nonmanufacturer submitting an offer in its own name warrants that it will furnish in performing the contract, only small business set-aside end items manufactured or produced by small business concerns inside the United States, its territories and possessions, the Commonwealth of Puerto Rico, or the Trust Territory of the Pacific Islands.

6. Small Business Concern Representation (*Check One*)

- A. Offeror represents and certifies as part of its offer that it is ☐ is not ☐ a small business concern as defined in paragraph 5.A. of this appendix.
- B. If offeror is a small business concern, manufacturer or nonmanufacturer, it also represents that all ☐ not all ☐ end items to be furnished must be manufactured or produced by a small business concern in the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Trust Territory of the Pacific Islands.

7. Small Disadvantaged Business Concern Representation (*Check One*)

Offeror is ☐ is not ☐ a small disadvantaged business concern as defined in Article 45 of USDA-1.

8. Women-Owned Small Business Representation (*Check One*)

Offeror is ☐ is not ☐ a women-owned small business concern as defined in Article 42 of USDA-1.

9. HUBZone Representation (*Check One*)

Offeror is ☐ is not ☐ a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal place of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

Offeror is ☐ is not ☐ a joint venture that complies with the requirements of 13 CFR part 126, and the representation in the above paragraph of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. (*The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.*) The offeror is responsible for each HUBZone small business concern participating in the joint venture submitting a separate copy of the HUBZone representation.

10. Veteran-owned Small Business Concern Representation (*Check One*)

Offeror is ☐ is not ☐ a veteran-owned small business concern as defined below.

Veteran-owned small business concern means a small business concern:

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101 (2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

- (2) The management and daily business operations of which are controlled by one or more veterans.

11. Service-disabled Veteran-owned Small Business Concern Representation (*Check One*)

Offeror is ☐ is not ☐ a service-disabled veteran-owned small business concern as defined below.

Service-disabled veteran-owned small business concern means a small business concern:

- (1) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
- (2) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
- (3) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service connected, as defined in 38 U.S.C. 101 (16)

12. Contingent Fee Representation (*Check One*)

The offeror represents that, except for full-time bona fide employees working solely for the offeror, the offeror:

- A. Has ☐ Has not ☐ employed or retained any person or firm to solicit or obtain this contract;
- B. Has ☐ Has not ☐ paid or agreed to pay to any person or firm employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

13. Clean Air and Water Certification (*Check One*)

Offeror certifies as follows:

- A. Any facility to be used in the performance of this proposed contract is ☐ is not ☐ listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- B. Offeror must immediately notify the contracting officer, before award, of the receipt of any communication from the Administrator, or a designee of the EPA, indicating that any facility that the offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities;
- C. Offeror must include a certification substantially the same as this certification, including this paragraph, in every nonexempt subcontract. (Article 47 of USDA-1 contains the Clean Air and Water Clause.)

14. Affirmative Action Compliance (Check One)

Offeror represents that it:

- A. Has ☐ Has not ☐ developed and has ☐ does not have ☐ on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (Title 41 CFR 60-1 and 60-2);
- B. Has ☐ Has not ☐ previously had contracts subject to the written affirmative action program requirement of the rules and regulations of the Secretary of Labor.

15. Previous Contracts and Compliance Reports (Check One)

Offeror represents that it:

- A. Has ☐ Has not ☐ participated in a previous contract or subcontract subject either to the "Equal Opportunity" clause in Article 41 of USDA-1, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114;
- B. Has ☐ Has not ☐ filed all required compliance reports;
- C. Must obtain representations indicating submission of required compliance reports signed by proposed subcontractors prior to subcontract awards.

16. Certificate of Independent Price Determination (Check A or B)

- A. ☐ Offeror certifies that the person submitting this bid, as identified in Section 20, is the person in offeror's organization responsible for determining the prices being offered in this bid and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of the "Certificate of Independent Price Determination" in Article 30 of USDA-1;
- B. ☐ Offeror certifies that the person submitting this bid, as identified in Section 20, is an authorized agent for (_____) and does certify that the principal named above has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3); and, as agent, has not personally participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of the "Certificate of Independent Price Determination."

17. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions

- A. The definitions and prohibitions contained in the clause "Limitation on Payments to Influence Certain Federal Transactions" in FAR 52.203-12, are hereby incorporated, by reference, in this certification.

- B. The offeror, by submitting its offer, hereby certifies to the best of his or her knowledge and belief that:
- (1) No federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;
 - (2) If any funds, other than federal appropriated funds (including profit or fee received under a covered federal transaction), have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror must complete and submit, with its offer, "Disclosure of Lobbying Activities" (OMB Standard Form LLL), to the contracting officer;
 - (3) The language of this certification must be included in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.
- C. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by Title 31, U.S.C., Section 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

18. Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (Check All That Apply)

- A. The offeror certifies, to the best of his or her knowledge and belief, that:
- (1) The offeror and/or any of its principals:
 - (a) Are ☐ Are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency;
 - (b) Have ☐ Have not ☐ within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- (c) Are ☐ Are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in Subdivision A(1)(b) of this provision.
- (2) The offeror has ☐ has not ☐ within a three-year period preceding this offer, had one or more contracts terminated for default by any federal agency.
- B. "Principals," for the purpose of this certification means officers, directors, owners, partners, and/or persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
- C. The offeror must provide immediate written notice to the contracting officer if, at any time prior to contract award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- D. A certification where any items in paragraph A. of this provision exists shall not necessarily result in withholding of an award under this solicitation. However, certification shall be considered in connection with a determination of the offeror's responsibility. Failure of the offeror to furnish a certification or provide such additional information as requested by the contracting officer may render the offeror nonresponsive.
- E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph A. of this provision. The knowledge and information of an offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- F. The certification in paragraph A. of this provision is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the contracting officer may terminate the contract resulting from this solicitation for default.

19. Taxpayer Identification

A. Definitions

- (1) "Common parent," as used in this solicitation provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.
- (2) "Corporate status," as used in this solicitation provision, means a designation as to whether the offeror is a corporate entity or an unincorporated entity (e.g., sole proprietorship or partnership).

(3) "Taxpayer Identification Number (TIN)," as used in this solicitation provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns.

B. All offerors are required to submit the information required in paragraphs C. through E. of this section in order to comply with reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M and implementing regulations issued by the IRS. If the resulting contract is subject to the reporting requirements described in FAR 4.903, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

C. Taxpayer Identification Number (TIN)

TIN: _____

☐ TIN has been applied for.

TIN is not required because: _____

D. Corporate Status (*Check One*)

Corporation	
Sole Proprietorship	
Partnership	

E. Common Parent

☐ Offeror is not owned by a common parent as defined in paragraph A.

Common parent name: _____

Common parent TIN: _____

20. The certifications, warranties, and representations as set forth in this appendix to the announcement(s) indicated as applicable in paragraph 1 of this appendix and Part C of USDA-1, are hereby made.

IN WITNESS WHEREOF, the undersigned has executed this offer this _____ day of _____, _____.
(Month) (Year)

NAME OF FIRM

SIGNATURE ¹

TITLE

TYPED NAME

Officer or Employee Responsible for the Offer

Additional Representatives Authorized to Sign Offers	
Signature	Typed Name

ADDRESS

CITY

STATE

ZIP CODE

TELEPHONE NO.

FAX NO.

EMAIL ADDRESS

¹

Before signing this Appendix, see Article 6 of USDA-1.

UNITED STATES
DEPARTMENT OF
AGRICULTURE

KANSAS CITY
COMMODITY OFFICE
P.O. BOX 419205
KANSAS CITY, MO 64141-6205

EFFECTIVE: January 31, 2002

APPENDIX 2

FAR Clauses Incorporated by Reference

ANNOUNCEMENT PP9 PURCHASE OF PEANUT PRODUCTS FOR USE IN DOMESTIC PROGRAMS



FAR Clauses Incorporated by Reference

The following clauses are incorporated by reference with the same force and effect as if they were given in full text. Upon request, the contracting officer will make their full text available. Also, the full text of a clause may be accessed electronically at the following FAR home page address:

<http://www.arnet.gov/far/>

The following FAR clauses are incorporated by reference in accordance with 52.252-2 (Feb 1998)		
Clause No.	Title	Issue Date
52.203-6	Restrictions on Subcontractor Sales to the Government (<i>Alternate I</i>)	Jul 1995
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	Jan 1997
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	Jul 1995
52.232-34	Payment by Electronic Funds Transfer--Other than Central Contractor Registration	May 1999
52.244-6	Subcontracts for Commercial Items and Commercial Components	Oct 1998